

Arkansas Insurance Department

Asa Hutchinson
Governor



Alan McClain
Commissioner

BEFORE THE STATE BOARD OF EMBALMERS, FUNERAL DIRECTORS, CEMETERIES, AND BURIAL SERVICES

IN THE MATTER OF
Williams Funeral Home
and Sylvester Smith, Jr., Respondents

Case No. 20-22

Via Certified Mail Return Receipt No. 7020 0090 0000 1730 5910; and First Class Mail

February 10, 2022

Mr. Sylvester Smith, Jr.
Williams Funeral Home
504 Adams Ave. N.W.
Camden, AR 71701

Dear Mr. Smith:

Please find the following Notice of Public Hearing against you and your establishment, regarding the inspections:

NOTICE OF PUBLIC HEARING

You are advised that an administrative hearing will take place on March 15, 2022 at 9:00 a.m. at an official meeting of the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services, in the Diamond Mine Room on the 2nd Floor of the Department of Commerce building, located at 1 Commerce Way, Little Rock, AR 72202. The hearing will be held before the Board concerning the following matters. The Hearing is your opportunity to defend yourself

against the following allegations, and for the Board to make a determination with regard to your funeral director and embalmer licenses, and the funeral home's establishment license.

ALLEGATIONS

1. Sylvester Smith, Jr., a licensed embalmer and funeral director, is the manager of Williams Funeral Home, a Type A establishment.
2. On September 22, 2020, the Board's Inspector inspected the establishment, which revealed several violations.
3. On August 17, 2021, Respondents entered into a consent agreement with the Board.
4. The consent agreement ordered Respondents to bring the conditions of the establishment into compliance with Board statutes, rules, and OSHA standards within ninety days.
5. The consent agreement further ordered Respondents to successfully pass an inspection at the end of the ninety-day period.
6. On November 22, 2021, an inspection was completed by the Board's Inspector. That inspection revealed:
 - a. the preparation room, selection room, and front yard were dirty and cluttered;
 - b. the clutter in the selection room and preparation room presented a potential trip hazard;
 - c. an exit was blocked in the preparation room by clutter and debris; and
 - d. there was no casket price list or outer burial price list.
7. As such, Respondents did not successfully pass the inspection that occurred November 22, 2021.

APPLICABLE LAWS

1. Pursuant to Ark. Code Ann. § 23-61-1103(a)(11)(A), the Board has authority to “conduct hearings and subpoena witnesses, books, and records in connection with alleged violations of this subchapter, relevant laws, and the rules or orders of the board.”
2. Ark. Code Ann. § 17-29-311(a) authorizes the Board to “issue letters of reprimand or caution, refuse to issue or renew a license, suspend or revoke any license for the practice of embalming or funeral directing, or may place the holder thereof on a term of probation after proper hearing upon finding the holder of the license to be guilty of acts of commission or omission, including the following: (9) Violation of any provision of this subchapter...”
3. Ark. Code Ann. § 17-29-304 sets forth various requirements for the operation of funeral establishments. Specifically, subsection (g)(3) requires the establishment to maintain proper care and maintenance of the interior and exterior of the establishment; and subsection (g)(4) requires the establishment to maintain the interior and exterior such that there is no potential or actual hazard to the health, safety, or welfare of the public.
4. 16 C.F.R. § 453.2(a) requires a funeral provider to provide accurate price information that discloses the cost of caskets and outer burial containers.
5. Board Rule XII.4 requires funeral firms, funeral directors, and embalmers to comply with all Federal Trade Commission (FTC) requirements.
6. Ark. Code Ann. § 23-61-1103(a)(6) authorizes the Board to “Suspend or revoke permits or licenses when a licensee fails to comply with any of the laws governing the licensee or when a licensee fails to comply with a rule or order of the Board.”

CHARGES

1. Respondents' actions, as set forth in Allegation 6.a, wherein the preparation room was dirty and cluttered, is in violation of Ark. Code Ann. § 17-29-304(g)(3).
2. Respondents' actions, as set forth in Allegation 6.a, wherein the selection room and front yard were dirty and cluttered, is in violation of Ark. Code Ann. § 17-29-304(g)(4).
3. Respondents' actions, as set forth in Allegation 6.b, wherein the clutter presented a trip hazard in the preparation room, is in violation of Ark. Code Ann. § 17-29-304(g)(3).
4. Respondents' actions, as set forth in Allegation 6.b, wherein the clutter presented a trip hazard in the selection room is in violation of Ark. Code Ann. § 17-29-304(g)(4).
3. Respondents' actions, as set forth in Allegation 6.c, wherein an exit from the preparation room was blocked by clutter and debris, is in violation of Ark. Code Ann. § 17-29-304(g)(3).
4. Respondents' actions, as set forth in Allegation 6.d, wherein there was no casket or outer burial container list, is in violation of Board Rule XII.4 which requires compliance with FTC requirements.
5. Respondents' actions, as set forth in Allegation 7, wherein they did not successfully pass the inspection at the end of ninety days, is in violation of Ark. Code Ann. § 23-61-1103(a)(6) in that they have failed to comply with an order of the Board.

TIME AND PLACE OF HEARING

You are hereby notified that the Board will hold a hearing on the allegations set out above, on March 15, 2022 at 9:00 a.m. in the Diamond Mine Room on the 2nd Floor of the Department of Commerce building, located at 1 Commerce Way, Little Rock, AR 72202.

The hearing will be conducted pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* You may appear in person, be represented by counsel, and

offer witnesses, affidavits, or documentary evidence in response to the allegations contained herein.

You are hereby notified that a continuance will be granted only for good cause and must be requested at least seven (7) days in advance. If you fail to appear at the hearing without first obtaining a continuance, the Board will conduct a hearing in your absence.

You are also notified that all evidence, including any documents, and any oral testimony which the Board determines to be relevant, shall be introduced on the day of the hearing. No additions will be permitted, nor will the record be allowed to be supplemented after the hearing is concluded.

Sincerely,

A handwritten signature in black ink, appearing to read 'AG', with a long horizontal stroke extending to the right.

Amanda Gibson
Associate Counsel
Arkansas Insurance Department

Counsel for the State Board of Embalmers, Funeral
Directors, Cemeteries, and Burial Services